



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

5 Post Office Square, Suite 100

Boston, MA 02109-3912

Via email: msnell@nutter.com
and first-class mail

November 6, 2019

Matthew Snell, Esq.
Nutter McClennen & Fish LLC
155 Seaport Boulevard.
Boston, MA 02210

RE: Aerovox Facility – 2009 TSCA Determination

Dear Matt:

Thank you for your letter to me dated November 4, 2019. If there was any misunderstanding or confusion that EPA was going beyond what was set out in our October 8, 2019 letter, it was not our intention. I understand Marilyn Wade and Ginny Lombardo have also had a conversation about your November 4 letter. To clarify, the totality of our position is set forth in EPA's October 8, 2019 letter, a portion of which is repeated here:

If AVX fails to seek a modified TSCA approval, EPA would have grounds for withdrawing the 2009 TSCA Determination based on the changed conditions noted above.¹ If AVX proceeds with implementing the full remedy described in MassDEP's Conditional Phase III Approval without a modified TSCA approval (or a new TSCA Determination), AVX would not be in compliance with the TSCA disposal regulations in 40 C.F.R. Part 761 Subpart D.

EPA supports AVX's ongoing pilot studies which will provide critical information on the efficacy of and design requirements for the MassDEP Conditionally Approved Revised Phase III Remedial Action Plan. Given our October 31 meeting and this letter, we believe we have addressed your concerns.

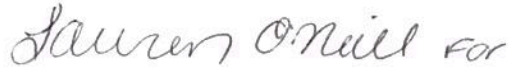
EPA will proceed in good faith with what we understood to be a consensus reached at the end of our October 31 meeting consistent with the fifth paragraph of your November 4, 2019 letter, that EPA's TSCA program, AVX's consultant, and MassDEP will work

¹ Please note that if AVX seeks a modification to the existing TSCA Determination, EPA may determine that a new TSCA Determination rather than a modification may be necessary.

together over the next several months to share, review, discuss and seek to resolve comments on data and data interpretations as it becomes available relative to the ongoing pilot studies and remedial design efforts. As agreed at our October 31, 2019 meeting, I will schedule a follow-up call with you at the end of January 2020 so that we can connect on the status of the technical communications and discuss next steps.

Feel free to call me with any questions.

Very truly yours,

A handwritten signature in cursive script that reads "Lauren O'Neill for".

Cynthia Catri
Senior Enforcement Counsel

cc via email:

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